

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**DONELLA HOBBS, Individually
And as the Executor of the Estate of
Annette Owens**

Plaintiff,

v.

**COMMUNITY EMERGENCY
MEDICAL SERVICE, INC., et al.**

Defendants.

Case No. _____

Judge _____

JOINT NOTICE OF REMOVAL

Defendants Parastar, Inc. ("Parastar") and Community Emergency Medical Service, Inc. ("CEMS") (collectively "Defendants"), by and through their undersigned counsel, hereby file the following Joint Notice of Removal of this action currently pending in the Montgomery County, Ohio Court of Common Pleas, Civil Case No. 2017-CV-02264, to the United States District Court for the Southern District of Ohio pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1441, and 28 U.S.C. § 1446. In support of removal, Defendants respectfully state:

1. The above-captioned case was filed in the Montgomery County, Ohio Court of Common Pleas on or about May 11, 2017 by Plaintiff Donella Hobbs, Individually and as Executor of the Estate of Annette Owens ("Plaintiff"). CEMS was the only named defendant.
2. An Amended Complaint was filed by Plaintiff on or about July 27, 2017, naming both CEMS and Parastar as defendants. The Amended Complaint alleged wrongful death and survival claims sounding in medical malpractice.

3. A copy of the Amended Complaint and summons were served on both CEMS and Parastar on or about August 2, 2017. Two motions are pending in the state court action at the time of the filing of the instant notice of removal: (1) Plaintiff's Motion for Default Judgment against CEMS; and (2) CEMS's Motion to Dismiss Plaintiff's Complaint.

4. Pursuant to 28 U.S.C. § 1446, all documents filed to date are attached to this Joint Notice of Removal as Exhibit 1.

5. Plaintiff Donella Hobbs is a resident of Ohio. *See* Am. Compl.

6. CEMS's headquarters and principal place of business are in Southfield, Michigan. CEMS is incorporated in Michigan.

7. Parastar's headquarters and principal place of business are in Southfield, Michigan. Parastar is incorporated in Michigan.

8. No Defendant is a citizen of the same state as Plaintiff, so complete diversity of citizenship exists between Plaintiff and all Defendants. *See* 28 U.S.C. § 1332(a)(1).

9. No Defendant is a citizen of Ohio, the state in which Plaintiff brought her lawsuit. *See* 28 U.S.C. § 1441(b)(2).

10. Plaintiff's Amended Complaint does not specifically identify the amount of damages she seeks to recover in this action.

11. "The statutory requirement that the defendant must file a notice of removal containing a short and plain statement of the grounds for removal purposely tracks the general pleading requirement stated in Rule 8(a) of the Federal Rules of Civil Procedure." *Heartland of Urbana, OH LLC v. McHugh Fuller Law Group, PLLC*, No. 3:15-cv-004, 2015 WL 1607930, *2 (S.D. Ohio April 8, 2015) (internal quotations omitted). Thus, pursuant to 28 U.S.C. § 1446(a), "a defendant's notice of removal need include only a plausible allegation that the amount in

controversy exceeds the jurisdictional threshold.” *Heartland of Urbana, OH LLC*, 2015 WL 1607930, *2.

12. According to her Complaint, Plaintiff’s decedent fell and fractured her hip on or about May 18, 2016. *See* Am. Compl. at ¶ 7. Per Plaintiff’s Amended Complaint, Plaintiff’s decedent “sustained injury [and] endured severe pain, suffering and mental anguish for a period of time prior to her death on August 11, 2016.” Am. Compl. at ¶ 8.

13. Plaintiff is seeking to recover: (1) damages for Plaintiff’s decedent’s injury, severe pain, suffering and mental anguish prior to her death; (2) loss of support, services, care, assistance, protection, guidance, education, consortium, mental anguish, emotional distress and loss of enjoyment of life in the past and future on behalf of Plaintiff’s decedent’s next of kin; (3) Plaintiff’s decedent’s medical, hospital, funeral and burial expenses; and (4) Plaintiff’s attorneys’ fees and court costs.

14. Defendants expressly deny that Defendants are liable to Plaintiff under any theory of recovery.

15. However, if Plaintiff could recover from any defendant, Defendants estimate in good faith that the amount required to satisfy her demands in full exceeds \$75,000, given the damages that Plaintiff is generally seeking in her Amended Complaint. *See Heartland of Urbana, OH LLC*, 2015 WL 1607930, *2.

16. Therefore, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because the parties hereto are completely diverse, meaning that no Defendant is a citizen of the same state as Plaintiff, and Defendants estimate in good faith that the amount-in-controversy, exclusive of interest and costs, exceeds the sum of \$75,000.

17. Because this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, this action is removable pursuant to 28 U.S.C. § 1441 and subject to 28 U.S.C. § 1446.

18. As required by 28 U.S.C. § 1446(b), this Joint Notice of Removal is timely filed in this Court within thirty (30) days after service was effected on Parastar via its resident agent.

19. Venue of this removed action is proper pursuant to 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division embracing the place wherein the removed action was pending: the Montgomery County, Ohio Court of Common Pleas.

20. Pursuant to 28 U.S.C. § 1441, CEMS consents to the removal of this action.

21. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Joint Notice of Removal, Defendants will give written notice of this filing to all parties and will file a copy of the Notice of Removal and Exhibit 1 with the Clerk of the Court for the Montgomery Court of Common Pleas.

WHEREFORE, Defendants respectfully request that the above-referenced action now pending in the Montgomery County, Ohio Court of Common Pleas be removed to this Court.

Respectfully submitted,

/s/ Jeremy R. Kopp

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*Counsel for Defendant Community
Emergency Medical Services, Inc. and
Parastar, Inc.*

This Notice of Removal has been signed pursuant to Federal Rule of Civil Procedure 11.

/s/ Jeremy R. Kopp

Jeremy Kopp (Bar No. 0090577)